

DEPARTMENT OF EDUCATION  
SUPERINTENDENT OF PUBLIC INSTRUCTION  
SPECIAL EDUCATION PROGRAMS AND SERVICES

Filed with the Secretary of State on

These rules take effect immediately upon filing with the Secretary of State unless adopted under section 33, 34, 45a(6), or 48 of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By the authority of sections 1701, 1703, 1711, 1729, 1741, 1751, and 1761 of 1976 PA 451, MCL 380.1701, MCL 380.1703, MCL 380.1711, MCL 380.1729, MCL 380.1741, MCL 380.1751, and MCL 380.1761, the Executive Reorganization Order Nos. 1996-6 and 1996-7, MCL 388.993 and MCL 388.994).

R 340.1701, R 340.1701a, R 340.1702, R 340.1703, R 340.1721, R 340.1721a, R 340.1721b, R 340.1721e, R 340.1722, R 340.1724f, R 340.1725f, R 340.1732, R 340.1734, R 340.1738, R 340.1748, R 340.1749a, R 340.1749b, R 340.1754, R 340.1755, R 340.1758, R 340.1781, R 340.1790, R 340.1796, R 340.1798, R 340.1799c, R 340.1799g, R 340.1802, R 340.1809, R 340.1811, R 340.1831, R 340.1832, R 340.1839, R 340.1851, and R 340.1862 of the Michigan Administrative Code are amended as follows:

PART 1. GENERAL PROVISIONS

R 340.1701 Assurance of compliance.

Rule 1. All public agencies in the state, as those agencies are defined at 34 C.F.R. §300.33 of the regulations implementing the individuals with disabilities education act, 20 U.S.C. chapter 33, §1400 et seq., shall comply with these rules; all provisions of the state's application for federal funds under part B and part C of the individuals with disabilities education act, 20 U.S.C. chapter 33, §1400 et seq.; the requirements of part B and part C of the individuals with disabilities education act; and the regulations implementing the individuals with disabilities education act, 34 C.F.R. part 300 and 34 C.F.R. part 303, which are adopted by reference in these rules. Copies are available, at cost, from the Government Printing Office, ~~Superintendent of Documents, P.O. Box 37195-7954, Pittsburgh, PA, 15250,~~ **732 North Capitol Street, NW, Washington, DC 20401-0001** or from the Center for Educational Networking, ~~Eaton Intermediate School District, 1790 East Packard Highway, Charlotte, MI, 48813~~ **6412 Centurion Drive, Suite 130, Lansing, MI 48917 or toll free at (888) 463-7656.**

R 340.1701a Definitions; A to D.

Rule 1a. As used in these rules:

(a) "Adaptive behavior" means a student's ability to perform the social roles appropriate for a person of his or her age and gender in a manner that meets the expectations of home, culture, school, neighborhood, and other relevant groups in which he or she participates.

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(b) "Agency" means a public or private entity or organization, including the local school district, public school academy, intermediate school district, the department, and any other political subdivision of the state that is responsible for providing education or services to students with disabilities.

(c) "Complaint" means a written and signed allegation that includes the facts on which the allegation is based, by an individual or an organization, that there is a violation of any of the following:

(i) Any current provision of these rules.

(ii) **The revised school code**, 1976 PA 451, MCL 380.1 ~~et seq.~~ **to 380.1853**, as it pertains to special education programs and services.

(iii) The individuals with disabilities education act of ~~2004~~, 20 U.S.C., chapter 33, §1400 et seq., and the regulations implementing the act, 34 C.F.R. part 300 and 34 C.F.R. part 303.

(iv) An intermediate school district plan.

(v) An individualized education program team report, ~~hearing officer decision~~, administrative law judge decision, or court decision regarding special education programs or services.

(vi) The state application for federal funds under the individuals with disabilities education act.

(d) "Department" means the state department of education.

(e) "Departmentalize" means a delivery system in which 2 or more special education teachers teach groups of students with disabilities by instructional content areas.

R 340.1702 "Student with a disability" defined.

Rule 2. "Student with a disability" means a person who **has been evaluated according to the individuals with disabilities education act and these rules**, is determined by an individualized education program team, **an individualized family service plan team**, or a ~~hearing officer~~ **an administrative law judge** to have 1 or more of the impairments specified in this part that necessitates special education or related services, or both, who is **3 years of age** and not more than 25 years of age as of September 1 of the school year of enrollment, and who has not graduated from high school. A student who reaches the age of 26 years after September 1 is a "student with a disability" and entitled to continue a special education program or service until the end of that school year.

**R 340.1703 "Infant or toddler with a disability" defined.**

**Rule 3. "Infant or toddler with a disability" means an individual less than 3 years of age who needs special education services because the individual is experiencing a developmental delay and meets the eligibility requirements of part 10 of these rules.**

## PART 2. INITIAL EVALUATION, TIME LINES, INDIVIDUALIZED EDUCATION PROGRAM, DISTRICT RESPONSIBILITIES, AND DUE PROCESS PROCEDURES

R 340.1721 Request for initial evaluation.

Rule 21. Within 10 school days of receipt of a written request for an initial evaluation of a student, **age 3 to 26 years**, suspected of having a disability, and before any formal evaluation designed to determine eligibility for special education programs and services, the public

agency shall provide the parent with written notice consistent with 34 CFR § 300.503 and, **when appropriate**, shall request written consent to evaluate.

R 340.1721a ~~Initial evaluation.~~ **Evaluations.**

Rule 21a. (1) Each student suspected of having a disability **under part B of the individuals with disabilities education act** shall be evaluated by a multidisciplinary evaluation team as defined in R 340.1701b(b). In addition to the requirements in R 340.1705 to R 340.1717, the multidisciplinary evaluation team shall do all of the following:

(a) Complete a full and individual evaluation.

(b) Make a recommendation of eligibility and prepare a written report to be presented to the individualized education program team by the designated multidisciplinary evaluation team member who can explain the instructional implication of evaluation results. The report shall include information needed by the individualized education program team to determine all of the following:

(i) Eligibility.

(ii) A student's present level of academic achievement and functional performance.

(iii) The educational needs of the student.

(2) Special education personnel who are authorized to conduct evaluations of students suspected of having a disability may provide consultation to general education personnel.

R 340.1721b Time lines.

Rule 21b. (1) Within 10 school days of receipt of a written request for any evaluation, the public agency shall provide the parent with written notice consistent with 34 CFR § 300.503 and shall request written parental consent to evaluate. The time from receipt of parental consent for an evaluation to the notice of an offer of a free appropriate public education or the determination of ineligibility shall not be more than 30 school days. This time line begins upon receipt of the signed parental consent by the public agency requesting the consent. This time line may be extended if agreed to by the parent and public agency. Any extension to this time line shall be both of the following:

(a) In writing.

(b) Measured in school days.

(2) The parent has 10 school days after receipt of the notice of an initial offer of a free appropriate public education to provide the public agency with written parental consent to provide initial special education programs and services.

(3) Within 7 school days from the date of the individualized education program team meeting, the public agency shall provide the parent with the notice of an offer of a free appropriate public education or determination of ineligibility. The public agency shall document mode and date of delivery. The notice shall identify where the programs and services are to be provided and when the individualized education program begins.

(4) Unless a parent has filed an appeal under R 340.1724f, the ~~superintendent or designee~~ **public agency** shall initiate a proposed special education individualized education program as soon as possible and not more than 15 school days after the parent's receipt of written notification under R 340.1721b(3), or not more than 15 school days after receipt of written parental consent under R 340.1721b(2). The parties may agree to a later initiation date if the later date is clearly identified in the individualized education program. An initiation date

later than 15 school days shall not be used to deny or delay programs or services because they are unavailable and shall not be used for purposes of administrative convenience.

(5) For students with an individualized education program in effect at a previous public agency who transfer public agencies within the same school year, the new public agency shall immediately provide a free appropriate public education. A decision regarding implementation of an individualized education program in accordance with 4 CFR § 300.323 shall be made within 30 school days of enrollment.

#### R 340.1721e Individualized education program.

Rule 21e. (1) An individualized education program shall be developed in accordance with 34 CFR part 300 and shall include all of the following in writing:

- (a) A statement of measurable annual goals, including measurable short-term objectives.
- (b) A statement documenting that extended school year services were considered.

**(c) For children age 3 to 5, a statement of the child's socialization needs and ability to participate and progress in the general early childhood curriculum.**

(2) In considering extended school year services, the individualized education program team shall do all of the following:

(a) Determine if a student's current annual goals address 1 or more skills that need extended school year services. For any identified annual goal, the individualized education program team shall consider all of the following:

(i) Data that indicate that in the identified annual goal there is a potential for regression of skills beyond a reasonable period of recoupment.

(ii) Data regarding the nature or severity of the disability of the student that indicates that there is a need to provide services in the identified annual goal during breaks in the school year.

(iii) Information that indicates that in the identified annual goal the student is at a critical stage of learning or in a critical area of learning where failure to provide a service beyond the normal school year will severely limit the student's capacity to acquire essential skills.

(b) If the individualized education program team determines that the data or information in any of subrule ~~(3)~~**(2)**(a)(i) to (iii) of this rule indicate a need for extended school year services, then extended school year services shall be included in the student's individualized education program.

(c) Determination of the need for extended school year services shall not be based on a formula or policy that prohibits full consideration of the unique educational needs of each student.

(d) Related services, transportation, supplementary aids and services, and instructional programming shall be considered when planning a student's extended school year services.

(e) Consideration of extended school year services shall be accomplished in sufficient time to make plans for the delivery of extended school year services.

(3) Any participant in the individualized education program team's deliberations who disagrees, in whole or in part, with the team's determination may indicate the reasons on the team's individualized education program report or may submit a written statement to be attached to the report.

(4) The individualized education program team shall determine the programs and services for a student with a disability in accordance with 34 CFR part 300. The individualized education program shall not be restricted to the programs and services available.

(5) The Michigan school for the deaf shall be considered a part of the total continuum of services for students who are deaf or hard of hearing. The resident district shall conduct the individualized education program team meeting that initiates an assignment into the Michigan school for the deaf. Representatives of the intermediate school district of residence and the Michigan school for the deaf shall be invited to participate in the individualized education program team meeting. ~~The state board of education shall adopt procedures for placement at the Michigan school for the deaf.~~

(6) The school district of residence is responsible for conducting the initial individualized education program team meeting involving a student in its district and shall conduct, or authorize the operating district to conduct, each subsequent individualized education program team meeting at a mutually agreed upon time and place.

(7) Upon request of the parent, a representative of the school district of residence shall be invited to attend the individualized education program team meeting if the district of residence has authorized the operating district to conduct each subsequent individualized education program team meeting.

#### R 340.1722 District responsibilities.

Rule 22. (1) The superintendent or his or her designee shall appoint a staff person to be responsible for the implementation of the individualized education program, including services provided by other agencies.

**(2) The staff person responsible for the implementation of the individualized education program shall be either of the following:**

**(a)** ~~†~~The principal of the building where the primary educational program is provided to the student with an individualized education program.

**(b)** ~~a~~Another staff person who is generally accessible to the staff and who will be working with the student.

**(3)** Each public agency shall provide special education and related services to a student in accordance with the student's individualized education program.

#### R 340.1724f Due process complaints; procedures.

Rule 24f. (1) This rule applies only to due process complaints filed on or after July 1, 2006.

(2) Due process complaints under this rule shall be administered by the department of education.

(3) A parent, a public agency, or the department of education may initiate a hearing by filing a written due process complaint with the department of education, office of special education ~~and early intervention services~~, and providing a copy of the complaint to the public agency or other party or parties that are the subject of the due process complaint. A due process complaint shall be all of the following:

(a) In writing.

(b) Signed by the complainant.

(c) Properly filed when the office of special education ~~and early intervention services~~ and the other party or parties that are the subject of the due process complaint have received a due process complaint that meets the requirements of these rules and 34 CFR §300.508(a) and (b)(1) to (4).

(d) Delivered to the office of special education ~~and early intervention services~~ in the following manner:

- (i) By mail, by facsimile, or in person.
- (ii) With a statement describing the facts of delivery to the party or parties that are the subject of the due process complaint in the following manner:
  - (A) If by mail, to whom the complaint was addressed and the date it was mailed.
  - (B) If by facsimile, to whom the complaint was addressed, the date and time it was sent.
  - (C) If in person, the date and place the complaint was delivered and to whom it was given.
- (4) Due process timelines begin when the office of special education ~~and early intervention services~~ and the other party that is the subject of the due process complaint have received a due process complaint that meets the requirements of these rules and 34 CFR §300.508.
- (5) A hearing may be initiated on matters related to any of the following:
  - (a) Identification.
  - (b) Evaluation.
  - (c) Educational Placement.
  - (d) Provision of a free appropriate public education.
  - (e) Provision of appropriate ~~Part C~~ services **under 34 CFR part 303** to the child or the child's family.
  - (f) Assignment of financial obligations for ~~Part C~~ services **under 34 CFR part 303** to the parents.
  - (g) Determination that behavior was not a manifestation of the student's disability.
  - (h) Determination of an appropriate interim alternative educational setting by the individualized education program team.
  - (i) Placement in an interim alternative setting for not more than 45 school days, because maintaining the current placement is substantially likely to result in injury to the student or others.
- (6) Upon receipt of a due process complaint that meets the requirements of these rules and 34 CFR §300.508(a) and (b)(1) to (4), the department of education will refer the complaint to the ~~state office of administrative hearings and rules~~ **Michigan administrative hearing system** which will appoint an administrative law judge to conduct a hearing in accordance with the individuals with disabilities education act, 20 U.S.C. §1401 et seq., 1976 PA 451, MCL 380.1701 ~~et seq.~~ **to 380.1853**, R 340.1883 to R 340.1885 and these rules.
- (7) Any party who is aggrieved by the final decision in a hearing conducted under this rule may appeal to a court of competent jurisdiction within 90 days after the mailing date of the final decision.
- (8) Unless otherwise specified in the administrative law judge's decision, the decision shall be implemented by the public agency within 15 school days of the agency's receipt of the decision.
- (9) When required by an administrative law judge order and decision the public agency shall submit proof of compliance to the department of education, office of special education ~~and early intervention services~~, documenting that the public agency has implemented the provisions of the final decision.

R 340.1725f Surrogate parent.

Rule 25f. Each public agency shall appoint persons to serve as surrogate parents in accordance with ~~procedures approved by the state board of education~~ **34 CFR part 300 section 300.519**.

### PART 3. ADMINISTRATION OF PROGRAMS AND SERVICES

R 340.1732 Designation of residency.

Rule 32. (1) **The residency of a student with a disability shall be determined in accordance with sections 380.1148 and 380.1148a of 1976 PA 451, MCL 380.1148 and MCL 380.1148a.** ~~A student with a disability is a resident of 1 school district in which the student has enrolled, and in which at least 1 of the student's parents resides. If the parents are legally separated or divorced and reside in different school districts, then the student with a disability may enroll in 1 of the school districts where either parent resides, regardless of the school district of residence of the parent having custody. The school district in which the student has enrolled remains~~

~~the student's resident school district when either of the following occurs:~~

~~—(a) The student with a disability sleeps, keeps personal effects, and regularly lodges in a school district other than the school district in which a parent resides, for an educational purpose, not for the purpose of securing a suitable home.~~

~~—(b) The student with a disability is lodged in a school district other than the school district in which a parent resides as directed by an agency or institution under the auspices of a court, the department of community health, or the family independence agency in a facility such as a private home, group home, or a private or public institution.~~

~~—(2) Both of the following situations are exceptions to the provisions of subrule (1) of this rule:~~

~~—(a) If a guardian has been appointed to provide the student with a disability with a suitable education, then the student is a resident of the school district in which the guardian resides.~~

~~—(b) If the student with a disability is under the control or custody of the family division of circuit court and is a ward of the state, has no living parent or guardian, or the parents reside out of the state, then the student is a resident of the school district in which the family division of circuit court is located.~~

~~—(3) A student with a disability who is not covered in subrule (1) or (2) of this rule is a resident of the school district in which the student habitually sleeps, keeps personal effects, and has a regular place of lodging for the purpose of securing a suitable home and not solely for an educational purpose.~~

~~—(4) Notwithstanding the provisions of subrules (1), (2), and (3) of this rule, all of the following provisions apply when the student with a disability is placed under the order or direction of a court or child placement agency and is lodged in a state institution, licensed foster home, licensed nursing home, or licensed group residential facility:~~

~~—(a) The school district in which the institution, home, or facility is located shall provide for the delivery of special education programs and services to the student with a disability under section 1751 of 1976 PA 451, MCL 380.1751.~~

~~—(b) The student with a disability shall be deemed to be a resident of the school district for the purpose of record maintenance required by 1976 PA 451, MCL 380.1757.~~

~~—(c) For all other purposes, including funding, the student's residence shall be determined under subrules (1), (2), and (3) of this rule.~~

(5)(2) If a disagreement occurs between 2 or more school districts as to the residency of a student with a disability, then all of the following procedures apply:

(a) Notice shall be sent to the department by a school district involved. The notice shall include all of the following information:

- (i) The names of all of the school districts alleged as a resident school district.
- (ii) The name of the student involved.
- (iii) The name and address of the parent or guardian, or address of the student if the student is over 18 years of age.
- (b) The department or its representative shall immediately notify the school districts involved and the parent, guardian, or student of the receipt of notice of disagreement.
- (c) Within 7 calendar days of receipt of notice from the department, all parties shall provide the department with a written statement of their position and supporting facts.
- (d) Within 14 calendar days of the receipt of a notice of a disagreement from a school district, the department shall investigate the matter, consider information received from the parties involved, and make a determination as to the residency of the student. A copy of the determination shall be immediately sent to each party involved.
- ~~-(e) Upon a written demonstration of just cause by any party involved, the state board of education or its designee may extend the time limits set forth in this subrule.~~

R 340.1734 Deviations from rules.

Rule 34. (1) A deviation from these rules shall ~~be requested, in writing, follow board-approved procedures and be requested, in writing, from the state board of education or its designee~~ by an intermediate school district, local school district, or public school academy that operates or contracts for special education programs and services **following procedures determined by the department**. A copy of the request shall be filed concurrently with the intermediate school district in which affected students with disabilities reside and all local constituent school districts in which the affected students with disabilities reside. A copy of the request shall be filed concurrently with the parent advisory committee of the intermediate school district that requests the deviation and the parent advisory committee of any intermediate school district in which affected students with disabilities reside.

(2) Within 7 days of receipt of the request, the intermediate school district shall review and inquire into the request and shall file, with the department, its position regarding the appropriateness of the request and its objections to, or endorsement of, the request, together with the rationale regarding its position.

(3) ~~The state board of education or its designee~~ **department** shall initiate action within 30 calendar days of receipt of the request. ~~The board or its designee~~ **department** may grant the request, in writing, for a period not to extend beyond the end of the current school year and upon such terms and conditions as it shall specify only when, in its judgment, the best interests of the students with disabilities affected by the deviation are served and good cause is shown.

(4) A deviation shall not be granted when the intent of the deviation is to exclude a student with a disability from, or deny a student with a disability participation in, a special education program or service that is required.

(5) A program deviation that is granted by ~~the state board of education or its designee~~ **department** is public information. The affected intermediate school districts, constituent local school districts, or public school academies shall inform their involved personnel of granted deviations in any manner they deem appropriate. At a minimum, the parent advisory committee shall be informed of the disposition of the request.

(6) A deviation shall not be requested for the purpose of avoiding or postponing corrections directed by the department under part 8 of these rules.



(7) If a final decision to deny a deviation request is made, then the school district that makes the request shall correct the condition that precipitated the request and shall forward to the department, office of special education ~~and early intervention services~~, within 30 school days of the denial, its assurance that the matter is now in compliance with the respective rule.

(8) Nothing in this rule or any other provision of statute or regulation shall permit the ~~state board of education~~ **department** to waive any of the requirements of ~~Ppart~~ **B** of the individuals with disabilities education act, as amended, 20 U.S.C. §1400 et seq.

#### R 340.1738 Severe cognitive impairment program.

Rule 38. A severe cognitive impairment program shall be operated as follows:

(a) There shall be 1 teacher and 2 instructional aides for a maximum of 12 students. The maximum number of students may be extended to 15 if an additional instructional aide is assigned with the placement of the thirteenth student. At least 1 full-time teacher and 1 full-time aide shall be employed in every severe cognitive impairment program.

(b) A severe cognitive impairment program shall consist of either **of the following**:

(i) A minimum of 200 days and 1,150 clock hours of instruction.

(ii) A minimum of 1,150 hours of instruction with no breaks greater than ~~two weeks~~ **10 consecutive school days**.

~~—(c) The first 5 days when pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, or health conditions as defined by the city, county, or state health authorities, shall be counted as days of pupil instruction. Subsequent days shall not be counted as days of pupil instruction.~~

~~(d)~~(c) Any decision on whether the child shall participate in the program beyond the regular school year established by the operating district must be made on an individual basis by the individualized education program team.

~~(e)~~(d) Teachers shall be responsible for the instructional program and shall coordinate the activities of aides and supportive professional personnel.

~~(f)~~(e) Instructional aides shall work under the supervision of the teacher and assist in the student's daily training program.

~~(g)~~(f) Program assistants may assist the teacher and the instructional aides in the feeding, lifting, and individualized care of students.

~~(h)~~(g) A registered nurse shall be reasonably available.

#### R 340.1748 Severe multiple impairments program.

Rule 48. (1) A severe multiple impairment program shall consist of at least 1 teacher and 2 instructional aides for a maximum of 9 students. At least 1 full-time teacher and 1 full-time aide shall be employed in every severe multiple impairments program.

(2) A severe multiple impairments program shall consist of either **of the following**:

(a) A minimum of 200 days and 1,150 clock hours of instruction.

(b) A minimum of 1,150 hours of instruction with no breaks greater than ~~two weeks~~ **10 consecutive school days**.

~~—(3) The first 5 days when pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, or health conditions as defined by the city, county, or state health authorities, shall be counted as days of pupil instruction. Subsequent days shall not be counted as days of pupil instruction.~~

~~(4)~~(3) Any decision on whether the child shall participate in the program beyond the regular school year established by the operating district must be made on an individual basis by the individualized education program team.

~~(5)~~(4) A registered nurse shall be reasonably available.

R 340.1749a Elementary level resource program.

Rule 49a. (1) A special education elementary level resource program ~~may~~ **shall** be provided by a special education teacher.

(2) The elementary resource teacher shall serve not more than 10 students at any 1 time and not more than 18 different students and shall do either or both of the following:

(a) Provide direct instruction to students on the resource teacher's caseload and may assign grades or other evaluative measures for this instruction.

(b) Provide support to the general education classroom teachers to whom special education students on the resource teacher's caseload have been assigned. Time shall be allocated to the resource teacher to carry out this responsibility.

(3) The elementary resource teacher may provide supplemental instruction to students on his or her caseload.

(4) The elementary resource teacher may evaluate general education students within the same building who are suspected of having a disability and, therefore, may serve on the initial multidisciplinary evaluation team. The resource teacher shall be responsible for the evaluation of not more than 2 students at 1 time. Time shall be allocated to the resource teacher to carry out this responsibility.

(5) If the special education teacher to whom the student is assigned does not have an endorsement in the area which matches the student's disability, the individualized educational program team shall determine if a teacher consultant with such credentials is needed to provide consultation, resources, and support services to the resource teacher.

R 340.1749b Secondary level resource program.

Rule 49b. (1) A special education secondary level resource program ~~may~~ **shall** be provided by a special education teacher.

(2) A secondary resource teacher shall serve not more than 10 students at any 1 time and have a caseload of not more than 20 different students and shall do either or both of the following:

(a) Provide direct instruction for special education courses approved for graduation by the local educational agency. The teacher may assign grades or other evaluative measures for this instruction.

(b) Provide support to the general education classroom teachers to whom special education students on the resource ~~room~~ **program** teacher's caseload have been assigned. Time shall be allocated to the resource teacher to carry out this responsibility.

(3) The secondary resource teacher may provide supplemental instruction to students on his or her caseload who are enrolled in general education classes. The teacher shall not teach a class and offer tutorial assistance at the same time.

(4) If the special education teacher to whom the student is assigned does not have an endorsement in the area which matches the student's disability, the individualized educational program team shall determine if a teacher consultant with such credentials is needed to provide consultation, resources, and support services to the resource teacher.

**R 340.1754 Early childhood special education programs; 2 years 6 months to 5 years of age**

~~Rule 54. All of the following provisions are specific requirements for early childhood special education programs for young children with disabilities or developmental delay:~~

**(1) Early childhood special education programs for students with disabilities may be provided to students with disabilities who are 2 years 6 months to 5 years of age. A student with a disability who is not more than 5 years of age as of September 1 of the school year of enrollment may attend through the end of the school year.**

~~—(a) An early childhood special education program with an approved early childhood special education teacher may be provided to young children with disabilities or developmental delay who are 2 1/2 through 5 years of age based upon the child's individual needs as specified by the individualized education program team. Early childhood special education programs may include children under 2 1/2 years of age as specified by the individualized education program team.~~

~~(b) The program shall be available for a minimum of 360 clock hours and 144 days of instruction. If a preschool-aged child with a disability or developmental delay is placed in a nonspecial education program, then the individualized education program team shall consider the need for consultation by an early childhood special education teacher.~~

~~—(c) The program shall have not more than 12 students for 1 teacher and 1 aide at any one time, and the teacher shall have responsibility for the educational programming for not more than 24 different students.~~

**(2) Early childhood special education programs for students with disabilities shall do all of the following:**

**(a) Be provided by an approved or endorsed early childhood special education teacher.**

**(b) Be based upon the student's individual needs as determined through an age appropriate developmental assessment and specified in an individualized education program.**

**(c) Utilize a research-based early childhood education comprehensive curriculum based on the approved state board of education early childhood standards.**

~~(d) Early childhood special education program shall have a parent participation and education component.~~

**(e) Be available for a minimum of 360 clock hours and 144 days of instruction.**

**(f) Have not more than 12 students for 1 teacher and 1 aide at any one time, and the teacher shall have responsibility for the educational programming for not more than 24 different students.**

**R 340.1755 Early childhood special education services; 2 years 6 months to 5 years of age**

~~Rule 55. All of the following provisions are specific requirements for early childhood special education services for young children with disabilities or developmental delay in family and community settings:~~

~~—(a) Services shall be provided by an approved early childhood special education teacher or approved related services staff to young children birth through age 5 based upon the child's individual needs as specified by the individualized education program or the combined individualized education/family service plan, as appropriate. Approved related services staff shall work under the supervision of an approved early childhood special education teacher.~~

~~-(b) Services shall be provided for a minimum of 2 hours per week, but not less than 72 clock hours within 180 school days. Services may be provided in appropriate early childhood community or family settings.~~

~~-(c) Early childhood special education services shall have a parent participation and education component.~~

**(1) Early childhood special education services for children students with disabilities may be provided to children students with disabilities who are 2 years 6 months to 5 years of age. A child student with a disability who is not more than 5 years of age as of September 1 of the school year of enrollment may attend through the end of the school year.**

**(2) Early childhood special education services for students with disabilities shall do all of the following:**

**(a) Be provided by an approved or endorsed early childhood special education teacher or approved related service provider.**

**(b) Provide for approved related services staff working under the educational direction of an approved or endorsed early childhood special education teacher.**

**(c) Be provided for not less than 72 clock hours over 1 academic year. Services may be provided in appropriate early childhood, school, community, or family settings.**

**(3) If a preschool-aged student with a disability is placed in a non-special education program, then the individualized education program team shall consider the need for consultation by an early childhood special education teacher.**

R 340.1758 Programs for students with autism spectrum disorder.

Rule 58. ~~(4)~~ Specific requirements for programs for students with autism spectrum disorder shall be provided using either of the following alternatives:

(a) Programs that consist of 1 classroom program for students with autism spectrum disorder shall not have more than 5 students and shall be served by a teacher of students with autism spectrum disorder. However, programs that consist of more than 1 classroom may have more than 5 students in a classroom, if the average student-to-teacher-and-aide ratio does not exceed 5 students to 1 teacher and 1 aide. A classroom with 3 or more students shall have 1 aide.

(b) A special education program described in ~~the~~ **an approved** intermediate school district plan ~~set forth in~~ **under** R 340.1832(d) ~~and approved by the state board of education~~ that assures the provision of educational programming for students with autism spectrum disorder.

## PART 5. QUALIFICATIONS OF TEACHERS AND OTHER PERSONNEL

R 340.1781 Teachers of students with disabilities; endorsement requirements.

Rule 81. (1) A teacher seeking an endorsement or full approval by the ~~state board of education or its designee~~ **department** shall meet all of the following requirements, in conjunction with those of R 340.1782, R 340.1786 to R 340.1788, R 340.1790, R 340.1795 to R 340.1797, and R 340.1799 to R 340.1799c, before being employed by an intermediate school district, local school district, public school academy, or other agency operating special education programs and services:

(a) The requisite knowledge, understanding, skills, and dispositions for effective practice related to all of the following:

- (i) Utilizing research-based models, theories, and philosophies for teaching students with an array of disabilities within different placements.
- (ii) Assessing students with disabilities for identification and teaching.
- (iii) Implementing accommodations and modifications for classroom, district, and statewide assessments.
- (iv) Using assistive technology devices to increase, maintain, or improve the capabilities of students with impairments.
- (v) Communicating, consulting, and collaborating with parents/guardians, paraprofessionals, general educators, administrators, and human services personnel.
- (vi) Developing, implementing, and evaluating individualized education programs.
- (vii) Planning, organizing, scheduling, and conducting individualized education program team meetings, including parental and student participation.
- (viii) Preparing students with disabilities for transitions consisting of preschool to elementary through post-secondary environments and employment.
- (ix) Maintaining, releasing, and transferring student records according to district, state, and federal rules and policies.
- (x) Articulating the historical and legal bases regarding special education, such as the concept of free appropriate public education, general least restrictive environment requirements, and family education and privacy rights.

(b) Understanding issues of race, class, culture, religion, gender, orientation, and language related to subdivision (a) of this subrule.

R 340.1790 Teacher consultants for students with disabilities.

Rule 90. In addition to meeting all of the requirements of R 340.1782, a teacher consultant shall meet both of the following requirements for full approval by the ~~state board of education or its designee~~ **department**:

- (a) Possess a master's degree in education or a field of study related to special education.
- (b) Show evidence of a minimum of 3 years of satisfactory teaching experience, not less than 2 years of which shall be teaching in a special education program.

R 340.1796 Teachers of students with speech and language impairment; special requirements.

Rule 96. (1) A teacher of students with speech and language impairment shall meet all of the following requirements:

- (a) An earned master's degree in speech and language pathology.
- (b) A minimum of 60 semester or equivalent hours of academic credit in normal aspects of human communication, development thereof, and clinical techniques for evaluation and management of speech and language disorders distributed as follows:
  - (i) A minimum of 12 semester or equivalent hours in courses pertaining to normal development of speech, language, and hearing.
  - (ii) A minimum of 30 semester or equivalent hours in courses on communication disorders and evaluation and management of speech, language, and hearing disorders. Of these 30 semester or equivalent hours, 24 hours shall be in speech and language pathology and 6 shall

be in audiology. Not more than 6 of the 30 semester or equivalent hours may be earned for clinical practicum.

(iii) A minimum of 30 semester or equivalent hours that are acceptable on a graduate level, of which 21 hours shall be within the group specified under paragraph (ii) of this subdivision.

(c) A minimum of 300 clock hours of supervised practicum experience with persons who present a variety of communication disorders, to be acquired in conjunction with academic training, 150 hours of which shall be obtained at the graduate level.

(2) The ~~state board of education or its designee~~ **department** shall approve as a teacher of students with speech and language impairment a person who is employed or approved as a teacher of students with speech and language impairment before the effective date of these rules.

(3) A teacher of students with speech and language impairment assigned to programs for students with severe language impairment, as defined in R 340.1756, shall be certified at the elementary level.

R 340.1798 Teachers of students requiring adapted physical education; role.

Rule 98. Teachers of students requiring adapted physical education may do any of the following:

(a) Provide adapted physical education instruction to students with disabilities whose disabilities preclude integration into general physical education classes without supports or modifications.

(b) Assess students for the purpose of providing adapted physical education.

(c) Provide supportive services in general physical education and consultative services to general physical education teachers **or special education teachers**.

R 340.1799c Teachers of students with hearing impairment; special requirements.

Rule 99c. (1) The teacher education program for teachers of students with hearing impairment shall include a minimum of 30 semester or equivalent hours. The teacher education program for teachers of students with hearing impairment shall meet the council on education of the deaf standards or shall, at a minimum, include 30 semester or equivalent hours relating to all of the following areas:

(a) Language and linguistics.

(b) Audiology and speech science.

(c) Psychology.

(d) Education.

(2) Students shall complete a program that is designed to develop all of the following competencies:

(a) Knowledge of linguistics, theories of language development, and the various special methods used to assess and develop language competence.

(b) Ability to utilize an individual diagnostic profile of the student's expressive and receptive language skills.

(c) Ability to integrate language development with the teaching of English, mathematics, social studies, science, and other academics.

(d) Ability to use various and combined modes, manual and oral, in both expressive and receptive communication with students with hearing impairment.

- (e) Knowledge of the anatomy, physiology, and pathology of the organs of speech and hearing.
  - (f) Knowledge of audiological assessment information and its application to the individualized education program of a student with hearing impairment.
  - (g) Knowledge of personal and group amplification systems, including their basic maintenance.
  - (h) Ability to incorporate and teach appropriate procedure to maximize the use of speech, speech reading, and auditory skills.
  - (i) Ability to use systematic observational techniques for establishing baseline data, evaluating problem areas, and for documenting and assessing progress.
  - (j) Knowledge of the psychological and sociological impact of severe/profound hearing impairment, including information about the community/culture of adult persons who are deaf.
  - (k) Ability to identify and use local, state, and national resources in support of students with hearing impairment, their parents, and their educational program.
  - (l) Ability to orient parents, general education school staff, and administrators to the unique needs and learning styles of students with hearing impairment.
  - (m) Ability to assess communication, academic, and social/emotional development of students with hearing impairment.
  - (n) Ability to relate diagnostic information in functional terms to parents and support service specialists.
  - (o) Ability to design and implement an educational program appropriate to the individual student's communication, academic, prevocational, and social needs.
  - (p) Ability to modify and adapt procedures for teaching reading, math, and other academic subjects to students with hearing impairment.
- (3) Before assignment to directed student teaching, each student shall spend a minimum of 60 clock hours in programs utilizing various communication modes, both manual and oral.
- (4) The council on the education of the deaf standards, as cited in subrule (1) of this rule, are adopted by reference in these rules and are available from the ~~Committee on Professional Preparation and Certification~~ **Council on Education of the Deaf**, Gallaudet University, 800 Florida Avenue, N.E., Washington, D.C. 20002-3695, and also from the Michigan Department of Education, Office of Special Education and Early Intervention Services, P.O. Box 30008, Lansing, MI, 48909, at no cost for reproduction.

R 340.1799g Transition coordinator; requirements.

Rule 99g. (1) Full approval as a transition coordinator shall be granted by the department to a person who meets all of the following requirements:

- (a) A bachelor's or graduate degree in special education or a field related to transition of youth with disabilities into adult life roles. Related fields include, but are not limited to, general and vocational education, vocational rehabilitation, and counseling.
- (b) A minimum of 3 years of satisfactory teaching experience in special or vocational education at the secondary level; or a minimum of 3 years of satisfactory employment providing transition-related service to individuals with disabilities between the ages of 13 to 26 years. Transition-related services include, but are not limited to, vocational rehabilitation, employment, counseling, independent living, and mental health. A person with a master's

degree in special education or field related to transition of youth with disabilities into adult life roles shall be credited with 1 year of employment.

(c) Approval under competencies and procedures established by the ~~state board of education~~ **department**.

~~—(2) Within 2 years of the effective date of this rule, a person with documented successful experience in providing transition coordination services under the transition services grant for transition shall be approved as a transition coordinator.~~

## PART 6. FINANCING

### R 340.1802 Use of funds.

Rule 102. Funds available to intermediate school districts, constituent local school districts, and public school academies as provided in R 340.1801 may be used for any of the following:

- (a) The employment of teachers and other personnel.
- (b) Transportation of students with disabilities.
- (c) The purchase and maintenance of equipment and supplies.
- (d) The lease, purchase, construction, renovation, or acquisition of vehicles, sites, buildings or portions thereof, and equipment as deemed necessary for staff, programs, and services operated under the intermediate school district plans as approved by the ~~state board of education~~ **department** and other provisions of law.

### R 340.1809 State aid to operating school districts.

Rule 109. The intermediate school district and its constituent local school districts and public school academies shall be entitled to receive reimbursement for special education programs and services that are in compliance with these rules and in accordance with the intermediate school district plan as approved by the ~~state board of education~~ **department** and as prescribed in 1979 PA 94, ~~as amended~~, MCL 388.1601 ~~et seq.~~ **to 388.1896**, and known as the state school aid act of 1979.

### R 340.1811 Distribution of intermediate millage to ~~the~~ intermediate school district, its constituent local school districts, and public school academies.

Rule 111. (1) Only those programs and related services provided under a ~~state board of education~~ **department**-approved intermediate school district plan and approved for reimbursement by the department shall be eligible for reimbursement from funds generated by adoption of millage under **sections 1723 and 1724 of** 1976 PA 451, MCL 380.1723 and 380.1724.

(2) If intermediate school district special education tax funds are insufficient to reimburse constituent claims in full, then a like percentage of the claim shall be paid for support of each program and service to each constituent district. Claims for operation of special education programs and services available to all constituent local school districts or public school academies may be reimbursed in full before any prorated payment which may become necessary for other programs and services.

(3) Current intermediate school district special education tax funds need not be used to offset operational claim deficits from prior years.



(4) Amounts may be retained by the intermediate school district for required cash flow purposes not to exceed 1 year's operational expenses for the purpose of maintaining special education programs and services operated by the intermediate school district.

(5) Intermediate school districts shall submit the desired method for the distribution of funds to the intermediate school district, its constituent local school districts, and public school academies and the reasons therefor for approval as part of the intermediate school district plan required under section 1711 of 1976 PA 451, MCL 380.1711.

#### PART 7.DEVELOPMENT AND SUBMISSION OF INTERMEDIATE SCHOOL DISTRICTS' PLANS AND MONITORING

R 340.1831 Plan and modification submission.

Rule 131. (1) Each intermediate school district board shall submit an intermediate school district plan for special education to the superintendent of public instruction to become effective when approved by the superintendent of public instruction.

(2) Any intermediate school district plan or subsequent modification approved by the superintendent of public instruction shall be distributed by the intermediate school district to each constituent local school district superintendent, each chief executive officer of a public school academy, and the chairperson of the parent advisory committee within 7 calendar days of the intermediate school district's receipt of approval by the superintendent of public instruction.

(3) Except as provided in subrule (4) of this rule, a plan submitted by an intermediate school district and approved by the superintendent of public instruction shall remain in effect until the intermediate school district submits modifications that the intermediate school district deems necessary to the department and the modifications are approved by the superintendent of public instruction.

(4) The department may require an intermediate school district to modify its plan if, after the effective date of the individuals with disabilities education act ~~amendments of 1997~~, 20 U.S.C. §1400 et seq., the provisions of that act, its regulations, 34 C.F.R. 300.1, et seq., 1976 PA 451, MCL 380.1 ~~et seq.~~ **to 380.1853**, or these rules are amended, there is a new interpretation of any of these laws or regulations by the United States Department of Education, the department, or court, or the department finds noncompliance.

(5) If the department requires a modification to the intermediate school district plan under subrule (4) of this rule and an intermediate school district's process as set forth in this part does not result in agreement among the intermediate school district, its constituent local school districts, public school academies, and the parent advisory committee regarding the required modification, then the intermediate school district shall submit the required modification. A constituent local school district, public school academy, or the parent advisory committee may file an objection under R 340.1836.

R 340.1832 Content areas.

Rule 132. An intermediate school district plan for special education, or any modification thereof, shall be an operational plan that sets forth the special education programs and related services to be delivered. The plan shall comply with 1976 PA 451, MCL 380.1 ~~et seq.~~ **to 380.1853** and these rules. The plan shall also comply with the following format and include, at a minimum, all of the following:

(a) A description of the procedures used by the intermediate school district to advise and inform students with disabilities, their parents, and other members of the community of the special education opportunities required under the law; the obligations of the local school districts, public school academies, and intermediate school district; and the title, address, and telephone number of representatives of those agencies who can provide information about the special education opportunities.

(b) A description of activities and outreach methods which are used to ensure that all citizens are aware of the availability of special education programs and services.

(c) A description of the type of diagnostic and related services that are available, either directly or as a purchased service, within the intermediate school district or its constituent local school districts or public school academies.

(d) A description of the special education programs designed to meet the educational needs of students with disabilities.

~~(e) The intermediate school district plan shall either describe special education programs and services under part 3 of these rules or shall propose alternative special education programs and services.~~

~~(f)~~(e) Provide an assurance statement that any personally identifiable data, information, and records of students with disabilities are collected, used, or maintained in compliance with 34 C.F.R. §§300.610 through 300.626.

~~(g)~~(f) The identity of the full- or part-time constituent local school district or public school academy administrator who, by position, is responsible for the implementation of special education programs and services.

~~(h)~~(g) A description of the qualifications of paraprofessional personnel.

~~(i)~~(h) A description of the transportation necessary to provide the special education programs and services described in subdivisions (c), **and** (d), ~~and (e)~~ of this subrule.

~~(j)~~(i) A description of the method of distribution of funds under R 340.1811(5).

~~(k)~~(j) A description of how the intermediate school district will appoint the parent advisory committee members under R 340.1838(1) and (2).

~~(l)~~(k) A description of the role and responsibilities of the parent advisory committee, including how it shall participate in the cooperative development of the intermediate school district plan, formulate objections thereto, if any, and other related matters.

~~(m)~~(l) A description of the role and relationship of administrative and other school personnel, as well as representatives of other agencies, in assisting the parent advisory committee in its responsibilities.

~~(n)~~(m) A description of the fiscal and staff resources that shall be secured or allocated to the parent advisory committee by the intermediate school district to make it efficient and effective in operation.

~~(o)~~(n) The plan shall be approved by the superintendent of public instruction before implementation under R 340.1831(1). The plan is developed and approved under R 340.1833 and R 340.1835 to R 340.1837.

R 340.1839 Monitoring and program evaluation.

Rule 139. (1) The department shall establish, ~~with approval of the state board of education,~~ monitoring procedures, criteria, and evaluation activities to ensure that minimum standards are being achieved by all public agencies.

(2) Each intermediate school district shall implement monitoring procedures and evaluation methods developed by the department to ensure that the standards and criteria established are being achieved by the intermediate school district, their constituent local school districts, and their public school academies.

## PART 8. STATE COMPLAINTS

R 340.1851 Filing a state complaint.

Rule 151. (1) A state complaint, ~~meeting the requirements of 34 CFR § 300.153, shall be filed with the department, office of special education, and a copy forwarded to the public agency that is the subject of the state complaint~~ **shall meet the requirements of 34 CFR § 300.153.**

(2) A state complaint shall be filed with the department within 1 year of the date of the alleged violation.

(3) A state complaint shall be delivered to the department and the public agency by mail, by fax, or by hand.

(4) Any person acting on behalf of a complainant shall provide evidence of that authority.

## PART 10. BIRTH TO THREE

R 340.1862 Individualized family service plan; time lines; eligibility.

Rule 162. (1) Eligibility for Michigan special education services for all ~~children~~ **infants and toddlers with a disability** birth to age 3 shall be determined by and documented in an individualized family service plan.

(2) Evaluations conducted to determine eligibility for Michigan special education services shall meet the requirements of 34 CFR part 303 and R 340.1705 to R 340.1717.

(3) Determination of eligibility for Michigan special education services, ~~for a child birth to 3~~ **for an infant or toddler who does not have a current individualized family service plan**, shall follow requirements pursuant to 34 CFR part 303 **and the Early On<sup>®</sup> Michigan part C individuals with disabilities education act state plan.**

~~—(4) Evaluations conducted to determine eligibility for Michigan special education services for a child birth to 3 who has a current individualized family service plan shall be completed within 45 calendar days counted from the date of receipt of parental consent for a special education evaluation. The following time lines apply:~~

~~—(a) Upon receipt of the parental consent for a special education evaluation, the service area Early On<sup>®</sup> coordinator shall, within 3 calendar days, forward the parental consent to the district responsible for the evaluation.~~

~~—(b) The 45 calendar day time line to complete the special education evaluation is counted from the date the district responsible for the evaluation receives the parental consent to evaluate for special education eligibility.~~

**(4) Special education services for infants and toddlers with disabilities shall be all of the following:**

**(a) Determined by the child's individual needs and specified in an individualized family service plan.**

**(b) Provided by an approved or endorsed early childhood special education teacher or approved related services staff.**

- (c) Provided for not less than 72 clock hours over 1 year.**
- (d) Provided in an appropriate early childhood, school, community, or family setting.**
- (e) Have a parent participation and education component.**
- (5) Approved related services staff shall work under the educational direction of an approved early childhood special education teacher.**